N° 26/126

International Court of Justice

REPUBLIC OF SERBIA
v/
UNITED NATIONS DEPARTMENT
OF POLITICAL AFFAIRS
(« *Kosovo War* »)

DECISION
FINAL JUDGMENT

President: ST HELIER, President
Curiam: CHARLES, KHALED, KYOLAC, MAJU, ST HELIER (*Constituted under the Addendum to the Rules of the 9th of June 2026*)
Registrar: Matthew E. WRIGHTSON

The Hague, 11th of June 2026

THE COURT:

1. By an application enrolled at the Registry of the Court on the 14th of May 2026, the Republic of Serbia prays that the Court annul the decision, revealed on the 12th of May, by which the Department of Political Affairs rescinded its decision conferring a victory by default to the Republic of Serbia in its war against the Republic of Kosovo.

2. The applicant argues that:

    a. the Department of Political Affairs instituted a defective procedure for the rescindment of the award of a victory by default in violation of natural justice, by refusing to allow the Republic of Serbia to be confronted with the evidence against it giving rise to the decision;

    b. the decision is vitiated by the Department's failure to give appropriate reasons;

    c. the Department of Political Affairs erred in law in rescinding the decision since the forces of the Republic of Kosovo, the opposing belligerent, was irregularly composed as a matter of law;

    d. the decision is vitiated by an error of fact insofar as the applicant did not engage in the "foul play" in respect of its personnel roster imputed to it.

3. The Republic of Kosovo, regularly notified, declined its right to intervene. The Court ordered a response from the Department of Political Affairs on or before the 4th of June 2026.

4. In light of the objective nature of this Court's jurisdiction of review of administrative acts, it belongs to the Court to form its own opinion on the points in dispute in light of the exhibits, pleadings, and other articles adduced onto the record. While the objective nature of this Court's review is such that the Court may not foist upon any party the solitary charge of the

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proof in cases submitted to the Court, this principle does not prevent the Court from drawing reasonable inferences, as part of its holistic evaluation of the evidence before it, from a party's declination to contest, in whole or in part, the factual allegations of the opposing party. Furthermore, the Court must give due consideration, in forming its conviction as to a point in dispute, to the nature thereof, and consider it in light of the extent to which it is readily apparent that one party alone is specially able to prove or refute it. These principles, which apply not only to the applicant, but, in appreciation of the finality of the review jurisdiction of the Court, which is to render justice and preserve administrative legality, which is maintained not for the benefit merely of the direct parties but the inherent collective interest, reciprocally entail that, where the defending administrative authority is in default of its reply notwithstanding an express order of the Court, the Court may, particularly where it is alleged a plausible claim in respect of an administrative authority's internal, or putatively concealed, proceedings, information, or animus, defective disclosure, or of a defect in conducting a sincere and appropriate consideration of the circumstances of the parties to an administrative claim or proceeding, such that the authority is especially and readily placed, to the exclusion of the Court and any external party, to refute the alleged diriment, deduce that the public authority must be understood, in the absence of any other justification, as acquiescing in the material exactitude of the discrete, well-pleaded, and plausible facts advanced by the applicant.

5. In respect of the first ground, it appears from the articles and exhibits on the record that the Department officially awarded, on the 14th of April 2026, the applicant a victory by default in pursuance of Article 3.IV.E.2 of the November 2025 Guidelines Resolution, and that, on the 12th of May thereafter, when preparing to archive the record of the administrative proceedings, the Department issued a "clarif[ication]" stating that the opposing party, the Republic of Kosovo, had received an administrative award in its favour on account of the applicant's "foul play" and improperly "altering their [administrative] roster" without authorisation. It furthermore results from the record that an agent for the applicant entertained thereafter private exchanges couched in terms of basic, and reciprocally injurious and profane, English with the then-Under Secretary General of the Department, Mr Persl4n author of the impugned clarification, wherein the Under Secretary General instructed the applicant to exhibit "some patience", and, in response to a request for supporting articles of evidence, made a statement, accompanied by linguistic embellishment, to the effect that "we dont [sic] always get what we want though". It does not, meanwhile, appear from the economical and conscientiously perlustrated record that the Department substantiated its conclusion with the service of any further precisions or supporting materials.

6. The principles of administrative finality and legal certainty command that, where an administrative authority exercises, in adversity to its beneficiaries, its presumptively inherent authority to rescind or vary its prior decision, it may do so only, at any time where it has exercised reasonable diligence, in respect of a decision affected by material fraud, or, within a prompt period, generally not exceeding one week of the primitive decision, to cure a diriment in the act with a view to restoring administrative legality. Furthermore, the power of rescission, whose object is to permit the effective cure of errors, oversights, and defects in administrative acts, may be exercised only on terms compatible with natural justice, implicating, except in cases of particular urgency, that the administrative authority places the interested parties in a position to be made aware of the reasoned basis of the proposed rescission or variation, and to meaningfully present contradictory observations thereupon in a

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a manner congruent to the nature of the decision. It results from the articles and exhibits of the record that the Department, which by entering onto the administrative record an ostensibly clarificative statement which, in recognising an administrative victory awarded to the opposing party, implicitly but necessarily rescinded, without affording, other than in invective and irregular circumstances, the applicant a material opportunity to present official observations upon the record, and on the sole basis of a peremptory, unparticularised and unsubstantiated finding of "foul play" of a nature elusive to the record, both before the administrative authority and the Court, the prior award, which evidently constitutes a decision creating rights, granted to the applicant, such that the impugned decision is impugned by error of procedure.

7. It results from that which precedes that, without needing to consider the other well-founded grounds of the application, the impugned decision revealed by the ostensibly clarificatory message of the 12th of May 2026 must be annulled.

8. In the absence of a costed application for costs presented by the relevant party prior to the Court's judgment, no order for costs or equivalent reparations is required.

9. The present judgment, in light of the nature of the decision challenged, does not require the prescription of injunctive relief.

ORDERS:

1. Application nº 26126 is **allowed**.

2. The decision, revealed on the 12th of May 2026 by the ostensibly clarificatory message entered onto the administrative record, rescinding the victory by default awarded to the applicant, and awarding an administrative victory to the opposing party, is **annulled**.

The Hague, 11 June 2026

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Per curiam :

President

Registrar

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